

FILED

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

2004 OCT 28 AM 10:16
U.S. EPA. REGION IX
REGIONAL HEARING CLERK

IN RE:)	
)	
PANG & SON DISTRIBUTION, L.L.C.,)	DOCKET NO. FIFRA-9-2004-0023
)	
)	MOTION TO EXTEND TIME
)	TO RESPOND TO COMPLAINT
)	
RESPONDENT)	
_____)	

TO THE REGIONAL JUDICIAL OFFICER:

Pursuant to the authority set forth in the Consolidated Rules of Practice, 40 C.F.R. Part 22, Complainant U.S. Environmental Protection Agency, Region 9 ("Complainant") moves the Regional Judicial Officer to grant a 30-day extension of time to respond to the complaint in the above-entitled action ("Complaint") to December 8, 2004. Complainant's reasons for seeking an extension for time are set forth below.

BACKGROUND

On September 29, 2004, Complainant filed a civil administrative action against Respondent Pang & Son, L.L.C., in the above-entitled action. The Complaint alleges violations of section 12 of Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136j. Respondent was served with the Complaint on or about October 9, 2004.

ARGUMENT

The Regional Judicial Officer may grant an extension of time to file an answer upon filing of a timely motion, a showing of good cause and after consideration of prejudice to other parties to

the action. 40 C.F.R. §§ 22.7(b); 22.16. This motion satisfies these criteria.

This motion is timely, having been filed prior to the date for Respondent's response to the Complaint.

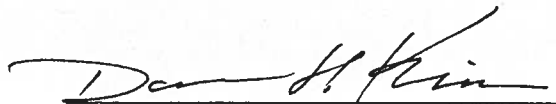
This motion also complies with the "good cause" requirement of 40 C.F.R. § 22.7(b). It is EPA's policy to encourage settlement and avoid litigation when consistent with the provisions and objectives of the law at issue. 40 C.F.R. § 22.18(b). Representatives of EPA and Respondent are discussing settlement of the above captioned matter, and a 30-day extension of time to answer will facilitate such negotiations.

Finally, granting of this motion will not result in prejudice. As noted above, the parties are involved in settlement discussions and the requested extension will provide EPA and Respondent sufficient time to reach and finalize settlement and fully resolve the matter.

CONCLUSION

For the reasons set forth above, Complainant respectfully requests that the Regional Judicial Officer grant Complainant's motion to extend time to file a response to and including December 8, 2004.

Dated at San Francisco, California on this 28th day of October, 2004.



David H. Kim

Assistant Regional Counsel
USEPA, Region 9

CERTIFICATE OF SERVICE

I certify that the original and a copy of the foregoing Motion to Extend Time to Respond to Complaint was hand delivered to:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

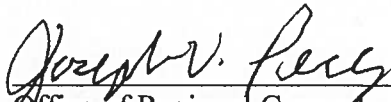
and that a true and correct copy of the Motion was placed in the United States Mail, addressed to the following:

Dirk Julander, Esq.
Julander Brown & Bollard
Two Park Plaza, Suite 450
Irvine, CA 92614

David Pang
Pang & Son Distribution, L.L.C.
1414 Alexander Street, #201
Honolulu, HI 96822

Dated: ^{SPC} ~~11/~~ 28/04

By:


Office of Regional Counsel
USEPA, Region 9